

### **REMARKS**

Applicant respectfully requests entry of the following amendments and remarks in response to the Office Action mailed June 9, 2008. Applicant respectfully submits that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 1 – 5 and 7 – 30 are pending. In particular, claims 1 – 2 are previously withdrawn. Additionally, Applicant amends claims 3, 10, 14, 16, and 22 – 30 and cancels claim 6 without prejudice, waiver, or disclaimer. Applicant cancels claim 6 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

#### **I. Rejections Under 35 U.S.C. §112**

The Office Action indicates that claims 4, 5, 19, 20, 21, 25, 26, 28, 29, and 30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection. More specifically, the Office Action has provided no rationale for rejecting these claims based on the widely accepted term "substantial." Nowhere in MPEP is there any indication that the term "substantial" is improper under 35 U.S.C. §112. In fact, MPEP §2106 not only fails to even suggest that "substantial" is improper, but in numerous places uses the term to set forth the requirements for patentable subject matter. For at least these reasons, this rejection is improper and claims 4, 5, 19, 20, 21, 25, 26, 28, 29, and 30 meet all the requirements of 35 U.S.C. §112.

II. **Rejections Under 35 U.S.C. §102**

A. **Claim 3 is Allowable Over *Segur***

The Office Action indicates that claim 3 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 6,212,550 ("*Segur*"). Applicant respectfully traverses this rejection on the grounds that *Segur* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 3 recites:

A system for integrating standard communication modalities, the system comprising:

***an Internet call waiting (ICW) system configured to communicate using a first standard communication protocol;***

a second communication system configured to communicate using a second standard communication protocol; and

a messaging server communicatively coupled to the Internet call waiting (ICW) system, the messaging server further being communicatively coupled to the second communication system, the messaging server being configured to receive a first communication from the Internet call waiting (ICW) system using the first standard communication protocol, the messaging server being further configured to convert the first communication into a second communication, the second communication being compatible with the second standard communication protocol, the messaging server being further configured to transmit the second communication to the second communication system using the second standard communication protocol.

***(Emphasis added).***

Applicant respectfully submits that claim 3, as amended, is allowable over the cited art for at least the reason that *Segur* fails to disclose, teach, or suggest a "system for integrating standard communication modalities, the system comprising... ***an Internet call waiting (ICW) system configured to communicate using a first standard communication protocol...*** [and] a messaging server communicatively coupled to the Internet call waiting (ICW) system... the messaging server being configured to receive a first communication from the Internet call waiting (ICW) system using the first standard communication protocol, the messaging server being further configured to convert the first communication into a second communication" as recited in claim 3, as amended. More specifically, the Office Action admits that *Segur* "fails to

disclose the system wherein the first communication system is an Internet call waiting (ICW) system" (OA page 9, line 16).

Further, *Zafar* fails to overcome the deficiencies of *Segur*. More specifically, while the Office Action argues that an Internet call waiting system "was a well known feature in the art at the time of invention" (OA page 9, line 17), Applicant respectfully disagrees. First, Applicant respectfully submits that a "system for integrating standard communication modalities, the system comprising... ***an Internet call waiting (ICW) system configured to communicate using a first standard communication protocol...*** [and] a messaging server communicatively coupled to the Internet call waiting (ICW) system... the messaging server being configured to receive a first communication from the Internet call waiting (ICW) system using the first standard communication protocol, the messaging server being further configured to convert the first communication into a second communication" as recited in claim 3, as amended, is not well known. More specifically, the subject matter noted above should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions, as required. Merely providing a reference that allegedly discloses the subject matter in question, does not rise to an evidentiary level of being well known in the industry. Further, even if an ICW was well known, as suggested by the Office Action (a point Applicant is not conceding), simply disclosing an ICW is vastly different than "***an Internet call waiting (ICW) system configured to communicate using a first standard communication protocol...*** [and] a messaging server communicatively coupled to the Internet call waiting (ICW) system... the messaging server being configured to receive a first communication from the Internet call waiting (ICW) system using the first standard communication protocol, the messaging server being further configured to convert the first communication into a second communication" as recited in claim 3, as amended.

Second, *Zafar* discloses “receiving a message identifying a calling party requesting a call in the voice network to a called party and providing the message to the called party via the data network by displaying an instant message containing a notification of the message on a display device visible to the called party” (column 2, line 40). As illustrated in this passage, *Zafar* appears to disclose receiving a PSTN-type call and providing a message associated with that call to a data network. This, however, is different than claim 3, as amended, for at least the reason that claim 3 recites a “messaging server being configured to receive a first communication from the Internet call waiting (ICW) system using the first standard communication protocol, the messaging server being further configured to convert the first communication into a second communication.” Consequently, *Zafar* appears to disclose a completely different conversion than that recited in claim 3, as amended. For at least these reasons, claim 3, as amended, is allowable.

**B. Claim 24 is Allowable over *Segur***

The Office Action indicates that claim 24 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 6,212,550 (“*Segur*”). Applicant respectfully traverses this rejection on the grounds that *Segur* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 24 recites:

A method for integrating standard communication modalities, the method comprising:

receiving a first communication *from a Internet call waiting (ICW) system*, the first communication being compatible with a first standard communication protocol;

*converting the first communication into a second communication at a messaging server*, the second communication being compatible with a second standard communication protocol; and

transmitting the second communication to a second communication system using the second standard communication protocol.

**(Emphasis added).**

Applicant respectfully submits that claim 24, as amended, is allowable over the cited art for at least the reason that *Segur* fails to disclose, teach, or suggest a "method for integrating standard communication modalities, the method comprising... receiving a first communication **from a Internet call waiting (ICW) system**, the first communication being compatible with a first standard communication protocol... [and] **converting the first communication into a second communication at a messaging server**, the second communication being compatible with a second standard communication protocol" as recited in claim 24, as amended. More specifically, the Office Action admits that *Segur* "fails to disclose the system wherein the first communication system is an Internet call waiting (ICW) system" (OA page 9, line 16).

Further, *Zafar* fails to overcome the deficiencies of *Segur*. More specifically, while the Office Action argues that an Internet call waiting system "was a well known feature in the art at the time of invention" (OA page 9, line 17), Applicant respectfully disagrees. First, Applicant respectfully submits that a "method for integrating standard communication modalities, the method comprising... receiving a first communication **from a Internet call waiting (ICW) system**, the first communication being compatible with a first standard communication protocol... [and] **converting the first communication into a second communication at a messaging server**, the second communication being compatible with a second standard communication protocol" as recited in claim 24, as amended, is not well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions, as required. Merely providing a reference that allegedly discloses the subject matter in question, does not rise to an evidentiary level of being well known in the industry. Further, even if an ICW was well known, as suggested by the Office Action (a point Applicant is not conceding), simply disclosing an ICW is vastly different than "receiving a first communication **from a Internet call waiting (ICW) system**, the first communication being compatible with a first standard communication protocol... [and] **converting the first communication into a second communication at a**

**messaging server**, the second communication being compatible with a second standard communication protocol" as recited in claim 24, as amended.

Second, *Zafar* discloses "receiving a message identifying a calling party requesting a call in the voice network to a called party and providing the message to the called party via the data network by displaying an instant message containing a notification of the message on a display device visible to the called party" (column 2, line 40). As illustrated in this passage, *Zafar* appears to disclose receiving a PSTN-type call and providing a message associated with that call to a data network. This, however, is different than claim 24, as amended, for at least the reason that claim 24 recites "receiving a first communication **from a Internet call waiting (ICW) system**, the first communication being compatible with a first standard communication protocol... [and] **converting the first communication into a second communication at a messaging server**, the second communication being compatible with a second standard communication protocol." Consequently, *Zafar* appears to disclose a completely different conversion than that recited in claim 24, as amended. For at least these reasons, claim 24, as amended, is allowable.

**C. Claims 4 – 5, 10 – 11, 14 – 15, 18 – 23, and 25 – 30 are Allowable Over *Segur***

The Office Action indicates that claims 4 – 5, 10 – 11, 14 – 15, 18 – 23, and 25 – 30 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 6,212,550 ("*Segur*"). Applicant respectfully traverses this rejection on the grounds that *Segur* does not disclose, teach, or suggest all of the claimed elements. More specifically, dependent claims 4 – 5, 10 – 11, 14 – 15, 18 – 23, are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 3. Additionally, claims 25 – 30 are believed to be allowable for at least the reason that these claims depend from and include elements of allowable independent claim 24. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**III. Rejections Under 35 U.S.C. §103 – Claims 7 – 9, 12 – 13, and 16 are Allowable Over *Segur* and *Zafar***

The Office Action indicates that claims 7 – 9, 12 – 13, and 16 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Number 6,212,550 ("*Segur*") in view of U.S. Patent No. 7,142,646 ("*Zafar*"). Applicant respectfully traverses this rejection for at least the reason that *Segur* in view of *Zafar* fails to disclose, teach, or suggest all of the elements of claim 7 – 9, 12 – 13, and 16. More specifically, dependent claims 7 – 9, 12 – 13, and 16 are believed to be allowable over *Segur* for at least the reason that these claims depend from and include the elements of allowable independent claim 3. Because *Zafar* fails to overcome the deficiencies of *Segur*, claims 7 – 9, 12, 13, and 16 are allowable as a matter of law. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

### **CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, all objections and/or rejections have been traversed, rendered moot, and/or addressed, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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